



FreshWater

ACCOUNTABILITY PROJECT

*Preserving and protecting our precious freshwater*

August 31, 2016

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460


ATTN: Ms. Gina McCarthy, Mail Code 1101A

Dear Ms. McCarthy:

We are writing from Ohio to request the USEPA's active involvement and investigation into irregularities in procedures that can violate the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act, and possibly other rules and regulations due to the highly unregulated horizontal hydrofracking and frack waste disposal operations in the state. Below are listed details of the particular cases in need of investigation by the USEPA:

- 1) As you are probably aware, the Ohio Department of Natural Resources (ODNR) has issued Chief's Orders to allow frack waste processing facilities to operate, we believe illegally, because of the lack of rules and regulations in place to protect air and drinking water supplies. One facility given Chief's Orders, Patriot Water Treatment LLC in Warren, OH (<http://www.pwtllc.net/>) has been processing frack waste water to send through a storm sewer for further processing by the Warren Wastewater Treatment Plant for ultimate discharge into the Mahoning River, a drinking water source for Zelionople and Beaver Falls, PA downstream. Without measuring for radionuclides, this could also be a criminal violation because it is illegal to knowingly contaminate drinking water supplies with radioactivity. From the outset of this scheme years ago, we notified Tom Angelo, then the superintendent of the Warren WWTP, that they should measure for Ra226 and 228 to insure that no water soluble radium is present in drinking water supplies. Most recently, we have worked with the University of Iowa to offer to do this testing ourselves. Our most recent correspondence with Ed Haller, the current superintendent of the Warren WWTP (who was not told of our concerns by his predecessor), is that he is waiting for permission and guidance from the Ohio EPA to do so. This needs to be investigated, because it seems that Mr. Haller is very concerned and wants to do the testing. This testing is urgently needed at the intake to the Warren WWTP and needs to be done now and regularly to assure no water-soluble radium is entering drinking water sources. The sediment at the discharge point at the Warren WWTP also needs to be tested for bio-accumulation of water-soluble radium. As you know, to treat frack waste through public waste treatment processors is a violation of the USEPA's recommendations, which is another reason this scheme must be investigated.


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In general, there is no public notice requirement nor public comment period for facilities given "Chief's Orders" to operate for the storage, processing or disposal of brine, crude oil, natural gas, or other fluids. ODNR has not written requisite rules to govern how these facilities operate, how or if these facilities would be inspected and what would be considered a violation. Without the necessary rules and regulations to govern these facilities (which we know of at least 43 that have been authorized to operate), water, soil and air contamination will result (and already has).


- 2) Injections wells are also given Chief's Orders to operate without adequate rules and regulations to protect from the toxic and radioactive characteristics of frack waste. As you know, injection wells leak, and endocrine-disrupting hormones have been found downstream of an injection well site by the University of Missouri researchers. We also believe that frack "brine" that is injected into Class II not-hazardous disposal wells here in Ohio contains diesel, which is a direct violation of the USEPA's guidance and recommendations per "Fact Sheet: Implementation of the Safe Drinking Water Act's Existing Requirements for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels." We suspect that diesel is being used the drilling muds used for fracking, which means that the "brine" that is disposed of in Class II wells also comes in contact with diesel and likely carries it back out to the surface. When frack waste is injected into the Class II wells, the odor of diesel is often predominant. Because Ohio is accepting frack waste from Pennsylvania for injection, and the attached documents state that as fact, this is another reason Ohio is in violation of SDWA Section 1421(d)(1)(B)) and must be investigated. Here is the excerpt - from a recent State Impact report: "horizontal section of the well will be drilled to total depth with a mixture of diesel fuel and synthetic oil based mud." (<https://stateimpact.npr.org/pennsylvania/2016/08/17/air-pollutants-from-pa-oil-and-gas-sites-continue-to-rise/#more-41201>) Here is the original notice from Skytruth that documents that diesel is used: <http://alerts.skytruth.org/report/5e71082f-b693-3774-87e6-2167b3102a1a#c=stae>
- 3) As a result of inadequate investigation and resolution of air contamination complaints by Jeff and Kerri Bond of Noble County by the Ohio EPA, a verified complaint was issued. This ongoing complaint has yet to be resolved, and the Bonds continue to experience health complaints with dying vegetation and trees on their property located near a fracking operation and a large compressor station. The Ohio EPA has yet to provide records of their investigation of the verified complaint and to set up 24/7 fenceline air monitoring equipment to find out what is causing the Bonds and their animals to get sick (animals have sores around their mouths from drinking water from the pond, and tumors). The Bonds also experienced sores in their mouths before shifting to purified water. Attached are records of our correspondence about this location (which also documents that the OEPA worked with and allowed the driller, Antero, onto the Bonds' property without their permission). 24/7 air monitoring equipment must be placed to measure and identify the air pollution in this area which also documents how the OEPA works with the industry to inform and protect them. The Bonds have also complained to the Ohio Department of Health, which made a visit to their property. The ODH could not assure them that they were not being exposed to radioactive particulate matter from the





flaring of the frack pad and compressor station, nor did the ODH collect water samples for testing. The Bonds' complaints continue with no resolution.

- 4) There are others who are experiencing similar treatment from the OEPA. We visited Debbie Lynn who lives near Barnesville, OH with Earthworks and documented emissions with Earthworks and their FLIR camera. While there, we experienced the same strong skunk-like smell that Debbie complains about. For the last two summers she has been sick and unable to go outside due to the pollutants. Now her hands are numb and she cannot walk well. When Debbie complained to the OEPA, they would only visit and write a report. The also included MarkWest who owns the Humphrey compressor station and kept the apprised of the complaints. There are many ways in which the OEPA seems to work more for the industry than for Ohioans. Is this collusion to protect the industry rather than the health of those exposed?
- 5) We have been testifying FERC hearings about the huge high-pressure pipelines planned to cross Ohio, providing testimony to the agency against these pipelines and their toxic compressor stations. We have appealed to the Ohio EPA and testified at a packed hearing in Waterville about the Nexus compressor station that is planned near a large school there. We testified that Governor Kasich appointees who lead the regulatory agencies promote fracking by externalizing the costs upon the public through inadequate rules and regulations. All that we have done is to no avail because the OEPA refuses to look at the total air contaminants involved in all the huge compressor stations needed to transport fracked gas mostly to export. We believe this is illegal segmentation of projects to not look at total pollutants allowed for all the fracking operations, with flares permitted, and the infrastructure, potentially avoiding Title V requirements(?) Not only is FERC not looking at the total GHG's that will be emitted per President Obama's mandate, no one knows exactly how much methane and VOC's will be emitted because no one is monitoring 24/7 to find out. The industry is given air pollution permits based upon the industry's tests of the equipment, and the industry itself does its own reporting of any pollutants. By the time the OEPA shows up because of a complaint (if they even show up), the pollutants are dispersed. Now the OEPA wants to implement a General Permitting scheme to streamline and expedite the expansion of the industry (fracking). This is further evidence of collusion with the industry to promote it and expand it without adequate rules, regulation and oversight and needs to be investigated.
- 6) Even though the USEPA Region V recognizes it needs to strengthen its program to audit Class II injection wells (<https://www.coxcolvin.com/epa-region-5-to-strengthen-auditing-of-state-uic-programs-including-ohios/>), it passed the UIC audit of Ohio's program which is sorely lacking. As you know, frack waste is falsely labeled as non-hazardous when it has been found to be toxic and radioactive. As a result, frack waste is being shipped, stored, processed and disposed of in ways that do not afford the necessary protections to the environment and human health. Here are a few examples that demonstrate our concerns and need to be investigated:




In the public notice and participation provisions contained in Ohio administrative code section 1501: 9-3-06(H). Paragraph (H) (1) it states that the public notice of the filing of an injection well permit shall be provided by the publication in a newspaper of general circulation in the affected county for not less than five consecutive days and in a circular available to County engineers. A copy the of notice is also to be provided to all "owners or operators of wells" within either one-quarter or one-half mile radius around a proposed injection well - but not to members of the public living in that radius (except for the very few who may read the newspaper every day to look for such notices). Paragraph (H) (2) provides that comment may be provided by the public on the application (i.e., not on the draft permit) within only 15 days of the last day that the notice was published in the local newspaper. If such comments are made, then the chief of the ODNR Division must rule on the "validity" of the comments. In the event he finds it valid (which we know of no cases in which that was done), the individual commenter alone (not the public in general) may attend a hearing with the chief on the objection. While the Ohio Administrative Code provides for the publication in a newspaper of general circulation in the affected county, this did not hold true for a permit issued by ODNR for an injection well in Monroe County, Ohio. The well was being converted from a production well to a class II injection well. Even though the well was located in Monroe County, the public notice appeared in Washington County in violation of law.

Thus, those who will be directly impacted are not given adequate notification and time to respond or much ability to protest effectively. Injection wells cannot be disputed until they are actually drilled and the permit to operate is issued – so the public is left out of any opportunity to stop the actual siting or drilling of a well. This process disempowers the local community and reduces accountability for the regulators, especially in light of how the process has been implemented at ODNR with inadequate rules and regulations in place to assure the safety and health of the community.

ODNR's enforcement program is no priority, is minimal in effort, and is clearly inadequate to deter violations for Class II injection wells and other disposal sites. Its principal civil enforcement tool authorizes a referral to Ohio Attorney General or local prosecuting attorney for injunctive relief and for civil penalties ranging from \$2,500 to \$20,000 per violation. Criminal penalties are possible penalties following a formal request from ODNR. However, no such requests have been made by ODNR for either civil or criminal prosecution under this authority. The ODNR program does not have authority to impose administrative fines independently and makes no move to do so through the AG's office.

Another chronic area of non-compliance is ODNR's avoidance of its obligation to require the closure and plugging of nonfunctioning or abandoned wells of all kinds (including production wells that are not governed by the UIC program, which allows for a pathway for contamination from leaking injection wells). The ODNR appears to be avoiding this important obligation through a de facto policy of declaring that only wells "incapable of use" due to deterioration or damage are to be considered abandoned, even if they had not been used for an extended number of years, and there is no intent ever to use them





again. Also, even when "plugging orders" are issued by ODNR, they are not followed up on to enforce compliance but rather are reissued indefinitely, or the matter is just dropped.

This lack of enforcement was documented in a June 1, 2014, story in the Columbus Dispatch titled "Oil, Gas Wells Often Keep Operating Despite Violations," which found that many wells cited for violations have remained in violation for years without any follow-up action. The Department's explanation for action is noteworthy: that many of these violations are "low priority" because "they are idle wells that need to be permanently closed." In other words, they are wells that the State should require to be plugged but the ODNR concedes it has simply given up on that duty. The Department justifies by saying that these wells "probably pose no imminent environmental threat." This failure to enforce the plugging requirement is also a concern for injection wells, because according to ODNR's December 19, 2014 map of injection wells, many are classified as plugged, even though many of these wells have been in operation for decades, unlike Pennsylvania DEP in which citations are issued if not plugged when abandoned (example: <http://alerts.skytruth.org/report/49333485-6008-3cd4-9161-a650073ba39d#c=stae>).

We have more complaints, but this is enough for now. If you would please investigate these six (6) complaints, you will find that there are many more irregularities in Ohio's permitting and regulating processes that urgently need to be addressed. The USEPA Region V is more aware of Ohio's problems, but as you know, their response is often inadequate. It is only until it becomes well known that people have been poisoned that the necessary action is taken. For now, evidence is being suppressed, but the truth always comes out, especially when people become sick as they are now because of fracking. This is a state-wide public health threat much greater than Flint, Michigan. We need your help and look forward to your response.

Sincerely,



Leatra Harper  
Managing Director  
FreshWater Accountability Project  
[www.FWAP.org](http://www.FWAP.org)  
(419) 450-7042



Leatra Harper &lt;wewantcleanwater@gmail.com&gt;

**Public Records Request - Fwd: Sandy Colegrove, EPA visit July 29,2015**

Leatra Harper &lt;wewantcleanwater@gmail.com&gt;

Fri, Aug 19, 2016 at 3:01 PM

To: "Bouder, Richard" &lt;richard.bouder@epa.ohio.gov&gt;

Thanks, Richard - I will share this with the attorneys. However, the last complaint we registered with the SE District office about the fumes causing dizziness and fatigue after another blowdown at the Crum compressor station (reported to Melissa at that office because Sandra was not available), we requested 24/7 air monitoring for a period of time. No doubt when the Crum compressor station and Antero people know that there are samples being collected, they can exercise special precautions to make sure no pollutants are emitted, so we are not surprised that by involving them and not doing a random sample without their knowledge or 24/7 monitoring, the results are suspect. Especially when the facts of sick animals and people nearby surface, we need to know what pollutants are causing these complaints. We just cannot accept this type of protocol that involves the polluters as valid and reliable data. When my husband ran the steel operation in Chicago, USEPA Region V would show up with air monitors randomly and often. This is what needs to be done when there are fracking-related complaints. Instead, the OEPA seems to work with the industry to notify and include them in complaints and any action the OEPA decides to take.

Antero did not need to give permission for sampling at the pad. The Bonds own the property. They would give permission, and Antero did not have to be notified. The OEPA not only included Antero in on their sampling study, notifying them of when and where the samples would be taken, but they allowed Antero to trespass on private property.

At this point, we are just documenting and requesting because there are no rules or regulations to protect us, but more could be done if the OEPA would do so. And we continue to request 24/7 monitoring for VOC's and small particulate matter at this location. A 24-hour grab sample is an inadequate test. We need to know what is being released in the numerous blowdowns at the Crum compressor station that happen mostly at night. Even when we called the OEPA when it happens, they don't get there in time to take samples (if they even respond), so a 24/7 fenceline monitor is needed.

Also, please enter another public records request for all documents regarding the below-referenced "leaks" on the Bond pad.

Appreciate your help and prompt response. You have always been so helpful and responsive, I am just letting you know that we are not going to drop this until we find out what is making the Bonds and their animals sick. Hope you have a good weekend!

Thanks!  
Lea

----- Forwarded message -----

From: richard.bouder@epa.ohio.gov <richard.bouder@epa.ohio.gov>

[Quoted text hidden]

----- Forwarded message -----

From: "Sandra.Colegrove@epa.ohio.gov" <Sandra.Colegrove@epa.ohio.gov>

To: "Melisa.Witherspoon@epa.ohio.gov" <Melisa.Witherspoon@epa.ohio.gov>, "Sarah.Harter@epa.ohio.gov" <Sarah.Harter@epa.ohio.gov>

Cc:

Date: Mon, 6 Jun 2016 12:48:43 +0000

Subject: FW: Bond Pad Sampling

From: Colegrove, Sandra

Sent: Thursday, May 26, 2016 1:36 PM

To: 'Barry Schatz' <bschatz@anteroresources.com>

Subject: RE: Bond Pad Sampling

One

**From:** Barry Schatz [mailto:bschatz@anteroresources.com]  
**Sent:** Thursday, May 26, 2016 12:06 PM  
**To:** Colegrove, Sandra <Sandra.Colegrove@epa.ohio.gov>  
**Subject:** RE: Bond Pad Sampling

Ok, how many samples are you planning on taking?

Barry Schatz

Senior Environmental and Regulatory Manager

Antero Resources

1615 Wynkoop Street

Denver, CO 80202

bschatz@anteroresources.com

(303) 357-7276 (O)

(719) 351-4198 (C)

**From:** Sandra.Colegrove@epa.ohio.gov [mailto:Sandra.Colegrove@epa.ohio.gov]  
**Sent:** Thursday, May 26, 2016 10:01 AM  
**To:** Barry Schatz  
**Subject:** RE: Bond Pad Sampling

Will do, Barry. The earliest will be late next week.

-Sandy

**From:** Barry Schatz [mailto:bschatz@anteroresources.com]  
**Sent:** Thursday, May 26, 2016 11:58 AM  
**To:** Colegrove, Sandra <Sandra.Colegrove@epa.ohio.gov>  
**Cc:** Lou Ann Lee <llee@anteroresources.com>; Jeremy Kinney <jkinney@anteroresources.com>  
**Subject:** RE: Bond Pad Sampling

Thanks, Sandy. I'm going to use ALS Environmental Labs (513) 733-5336 out of Cincinnati to run our samples. We will set up our canisters to run for 24 hours, just like you are doing. Let me know what day you want to do the sampling. It will take me a few days to get the canisters shipped from Cincinnati to Marietta.

Barry Schatz

Senior Environmental and Regulatory Manager

Antero Resources

1615 Wynkoop Street

Denver, CO 80202

bschatz@anteroresources.com

(303) 357-7276 (O)

(719) 351-4198 (C)

**From:** Sandra.Colegrove@epa.ohio.gov [mailto:Sandra.Colegrove@epa.ohio.gov]

**Sent:** Thursday, May 26, 2016 8:03 AM

**To:** Barry Schatz

**Cc:** Lou Ann Lee

**Subject:** RE: Bond Pad Sampling

**From:** Barry Schatz [mailto:bschatz@anteroresources.com]

**Sent:** Wednesday, May 25, 2016 4:15 PM

**To:** Colegrove, Sandra <Sandra.Colegrove@epa.ohio.gov>; Lou Ann Lee <llee@anteroresources.com>; Jeremy Kinney <jkinney@anteroresources.com>

**Subject:** FW: Bond Pad Sampling

Sandra, it is ok for you to do the sampling on the Bond Pad. Please contact Lou Ann to let us know when you want to set the canisters. For safety reasons we will have an Antero employee accompany you on the pad.

- 1) What prompted the sampling, was it a complaint? Yes, but not a new one.
- 2) We would like to also set summa canisters adjacent to yours to get sample splits to compare the results. I want to insure our sampling and testing methods matches yours. Sounds fine.
- 3) What are you going to analyze for ? VOC's
- 4) What testing method are you using ?TO-15
- 5) What lab are you going to use? We will use the State of Ohio Lab that processes Ohio Dept of Health, Agriculture and EPA samples.

Thanks,

Barry Schatz



Senior Environmental and Regulatory Manager

Antero Resources

1615 Wynkoop Street

Denver, CO 80202

bschatz@anteroresources.com

(303) 357-7276 (O)

(719) 351-4198 (C)

**From:** Lou Ann Lee

**Sent:** Wednesday, May 25, 2016 11:16 AM

**To:** Barry Schatz

**Subject:** FW: Bond Pad

**From:** Sandra.Colegrove@epa.ohio.gov [mailto:Sandra.Colegrove@epa.ohio.gov]

**Sent:** Wednesday, May 25, 2016 11:52 AM

**To:** Lou Ann Lee

**Subject:** Bond Pad

Hi Lou Ann,

Hope all is well and you are able to get outside today!

Thanks for responding so quickly to the leak at the Bond Pad. I was wondering if everything is repaired. I would like to visit the pad Friday, after lunch. If you are in the area, would it be possible for you to meet us with your FLIR camera? You were correct, you will not be receiving an NOV for the leaks, as long as you repaired them per the permit terms.

I have another thing to ask you. The agency is planning to place some 24 hour air monitoring devices (summa canisters) near the Keri Bond property. Would it be ok with Antero to place a canister on the pad and possibly one on the access road. This is planned for next week.

-Sandy



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"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." **Margaret Mead**

----- Forwarded message -----

From:

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Date:

Subject:

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**2 attachments**

 **noname.eml**  
55K

 **Mud Area Sampling 2\_3Jun16.pdf**  
565K



Leatra Harper &lt;wewantcleanwater@gmail.com&gt;

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**Public Records Request - Fwd: Sandy Colegrove, EPA visit July 29,2015**

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**Leatra Harper** <wewantcleanwater@gmail.com>

Fri, Aug 26, 2016 at 3:58 PM

To: "richard.bouder@epa.ohio.gov" &lt;richard.bouder@epa.ohio.gov&gt;

Thanks for following up on this, Richard - I am drafting a letter to the USEPA about the failure to be responsive to this complaint just to let you know. I don't want to get anyone in trouble, but Bonds' complaints have never been adequately addressed. Short of random, unannounced monitoring and 24/7 fenceline monitors, or rapid response to blowdowns and pollution events that have yet to happen, the OEPA, by notifying the drillers and calling the compressor station when complaints are made rather than responding themselves with monitors, appears to be protective of the industry rather than the residents. We are at the limit of our tolerance for this, especially when human health effects are documented. Here's another recent report on this FYI:

[http://www.eenews.net/assets/2016/08/25/document\\_ew\\_01.pdf](http://www.eenews.net/assets/2016/08/25/document_ew_01.pdf)

I know this is not your job, and you can't do much about it. I'm just filling you in because I appreciate all your help and know that you are doing the best job you can in a very difficult, if not impossible, situation.

Best,  
Lea

[Quoted text hidden]



Leatra Harper <[wewantcleanwater@gmail.com](mailto:wewantcleanwater@gmail.com)>

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**Public Records Request - Fwd: Sandy Colegrove, EPA visit July 29,2015**

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**richard.bouder@epa.ohio.gov** <[richard.bouder@epa.ohio.gov](mailto:richard.bouder@epa.ohio.gov)>

Fri, Aug 26, 2016 at 1:48 PM

To: Leatra Harper <[wewantcleanwater@gmail.com](mailto:wewantcleanwater@gmail.com)>

Hi Lea,

I followed up with Sandy Colegrove on your request below for documents regarding the leaks on the Bond pad. She indicated that the only document she has regarding this matter is the verified complaint document which is not yet available as it still is not finalized.

I hope this helps, please let me know if you need anything else in the meantime.

Have a great weekend!

Rich

**From:** Leatra Harper [<mailto:wewantcleanwater@gmail.com>]

**Sent:** Friday, August 19, 2016 3:01 PM





**To:** Bouder, Richard <[richard.bouder@epa.ohio.gov](mailto:richard.bouder@epa.ohio.gov)>

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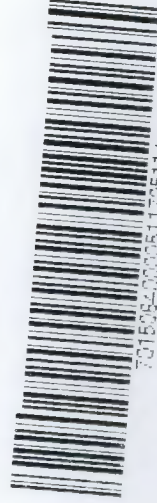
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